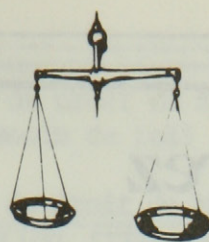


Quid Novi



VOL. III NO. 1

MCGILL UNIVERSITY FACULTY OF LAW

September 10, 1982

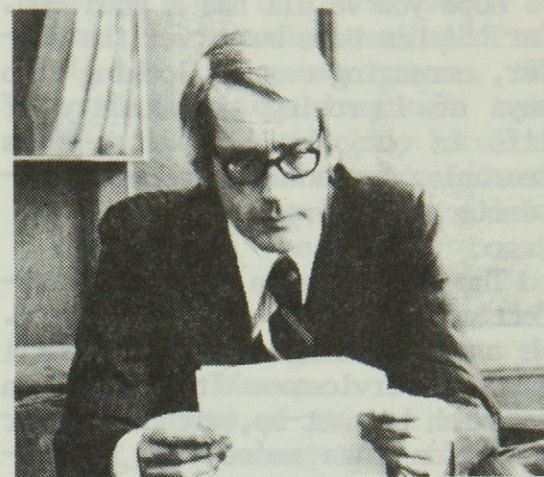
Dean Brierley Interview

In August, 1982, Dean Brierley consented to a wide-ranging interview which will appear in three parts in Quid Novi. Part One deals with the financial and academic position of McGill. Part Two deals with the job market and student participation at the school. Part Three will deal with grading standards, placement, and the Dean's record at the school since 1974.

Quid Novi: Perhaps I could start by asking: Where in the McGill Faculty of Law going?

Dean Brierley: I don't know if you'll be disappointed but my immediate reaction as Dean is to think in terms of dollars. It's with an adequate resource base that you can move to accomplish some of the things that have to be accom-

plished at the Law School - not all of them, but a number of them. And as you probably know we are waiting for the results of a University Review of the Faculty which I requested be made. This review covered a range of questions such as the school's "mission", its goals, its interaction with communities locally, nationally, and internationally as well as its resource base, to see whether the university has made proper financial decisions in our regard over the past years. The results of the Review have been delayed. We were hoping they would come in June, but they are probably not going to come down until September. I have reason to believe they are going to be positive. So financially, first of all, it's common knowledge that all universities in the Western World and all universities in Canada and Québec are suffering very, very



drastic reductions. Fortunately, there's no evidence, in fact there's no foundation at all to the suggestion, that McGill has been singled out in any particular way to its disadvantage by any level of government. That matter can be put aside.

So when you say "Where is McGill going?", what I'm certainly hoping, and counting on really, is that there will be an arrest made to the budgetary compression which we have

Continued on p. 6

Le cinema d'ici

Ceux d'entre vous qui ont eu l'insigne honneur de venir grossir les rangs de notre Faculté verront se dérouler devant leurs yeux écarquillés d'étonnement un film insolite. Ce long métrage couleur en trois dimensions projeté sur un écran grandeur nature s'intitule "Le droit: mythes et réalités". Ne vous méprenez pas, il ne s'agit ni d'une intrigue policière, encore moins d'un suspense de science-fiction ni même, hélas, d'une comédie de mœurs, mais plutôt d'un drame psycho-social.

L'originalité de cette superproduction est que les rôles principaux sont accordés à ceux qui veulent bien les occuper (nous avons la chance d'avoir un réalisateur flexible et beaucoup d'acteurs

de talent!) Le plus souvent, vos maîtres s'en accapareront jalousement car, croient-ils, ils leurs concernent de droit. Parfois, les plus intrépides d'entre vous rassembleront tout leur courage et, le cœur battant à tout rompre, lèveront timidement leurs mains moites d'émotion et s'aventureront dans les eaux profondes de l'inconnu au risque d'y être engoufflés, impuissants, emprisonnés dans les mailles du filet tendu subrepticement par un professeur sournois en quête de poissons de taille où satisfaire son appétit pantagruétique. Les autres, ceux qui n'ont pas compris un détail du cours, se garderont bien d'en faire autant, craignant d'attirer sur eux un torrent d'humiliation sans même

réaliser que leur malheur est partagé par la majorité de leurs collègues.

A mesure que le temps passera et que vous vous plongerez au cœur de l'intrigue et que le suspense vous clouera sur vos chaises pendant que vous boirez les paroles de votre professeur pour immédiatement les transcrire frénétiquement sur les pages de vos cahiers, certaines de vos illusions s'envoleront en fumée alors que vous constaterez, désabusés, que le mot "justice" n'est que trop souvent absent du discours juridique qui tous les jours déferle sur vous comme jadis le déluge sur la terre. Vous réaliserez également que la Faculté n'est pas uniquement un haut lieu du savoir réservé aux "élites" que

Continued on p. 5

From our Prez

Hey Ya Folks,

Hope you've all had a good one. Our LSA has been busy over the summer, arranging events, looking into ways of improving the quality of life in our community as well as searching for a more reasonable academic atmosphere.

The major change which will affect most of us is a new cafeteria. We are now being served by McGill Student Services. It will be a sandwich bar set-up, with a greater selection than we've had in previous years. For those of you who are still in need of money we have a priority clause for law students in the cafeteria's hiring. So if you're interested, keep your ears and eyes open for more info. McGill student services would like to work closely with us in order to serve us better. Any criticisms and/or suggestions are welcome.

The Student Representation Committee has met several times and we are presently awaiting responses to letters which we sent to other law schools asking for the situation in their respective faculties. Once the results are tabulated we will all have a decision to make as to whether to go to Faculty Council again or proceed by another route.

There will be elections held Thursday, September 16. The voting will be for a new treasurer as well as new class presidents. All LSA members may vote in the treasurer race. Each LSA member will also be able to vote for their respective class presidents. I feel it should be stressed at this point that due to the new LSA Constitution the class presidents play a major role in our political process. The various semi-autonomous and autonomous groups (Quid Novi, Moot Court, Sports Comm. etc.) no longer have a vote on the LSA Council. As such, the LSA Council will be representative of the student body and more effective. There is a catch here. Because of the class president's

role it is of utmost importance that those elected are responsible and concerned students. It is not a popularity contest but an election for an individual who will serve the LSA.

There are other things in the works which will develop as the year continues. And while there is a tentative list of priorities drawn up I stress that the LSA is your association and exists to help you. Therefore any problem you have or changes you would like to see within our Faculty the LSA is at your disposal to initiate discussion and hopefully results depending on how we all feel as a student body. If an idea or problem does arise contact your class president (told you they play an important role) or anyone in the LSA executive. Remember the Law Students Association's strength is in its numbers. Through student participation and support we can make this Faculty a better place to spend three or four years.

Looking Forward To A
Productive and Fun Year,

Roger Outler

P.S. There are a few positions not yet filled:

- 1) Speaker of LSA Council - This position was held by the president but the new Constitution feels it would be better to have a moderator of sorts and thus let the President concentrate on the issues.
- 2) Program Coordinator - This position was established in order to avoid conflicting events throughout the year and have someone who can coordinate times and places.
- 3) Common Law Sports Rep. - This position is open to any student who would like to represent McGill's interests at the Common Law Sports Tournament at Osgoode. Both men and women representatives are needed to represent our Faculty at McGill Intramural meetings.

Many first year students find law school stressful and harrowing. "It doesn't have to be that way", claims the Student Support Group. A new organization in the faculty, the Student Support Group is a student run, counselling and information service designed to make first year as pleasant as possible.

The first few months of the first year are particularly fraught with tension because students must hammer out, machine-gun fashion, several assignments for the legal writing tutorial in addition to keeping up with what appears to be an impossible reading load. Students should not be embarrassed to go to the SSG office with academic problems like: "I don't understand what I'm reading", "Where do I find what I'm looking for in the library?", "Is it necessary to brief cases?", "How does one write a case analysis?"...and later, "What does a professor expect to see in an examination?".

The SSG also expects to hear questions like "Is there life during law school?" and "What can I do to preserve mine?" Many students are tempted to drop out during their first semester for fear of academic failure. This is unfortunate since for most students this fear is unfounded. First year is not an accurate reflection of what upper years are like. By the end of the first year most students have increased their reading speed, learned how to brief cases and how to prepare for exams. Consequently, second year seems easier.

The SSG wants to see first year students leap all the hurdles and make it safely and sanely into second year.

Students can call 392-5373 or drop by Rm. 53 Old Chancellor Day Hall (at the very top of the stairs) from 9 a.m. to 5 p.m. Monday through Friday. One or two people will be on call each night. Their numbers will be published each week in Quid Novi and posted on the office door.

Any upper year student who is interested in volunteering some time and energy should get in touch with a member of the SSG. Your assistance would be greatly appreciated by all those concerned.

LIST OF NAMES AND PHONE NUMBERS

OF SSG PEOPLE ON CALL

FROM WED. SEPT. 8 TO WED. SEPT. 15

September 8

Erika Rosenfeld 843-7124

September 9

Martha Shea 845-7827

September 10

Fran Boyle 288-8752

September 11 (after 5:00p.m.)

Erika Rosenfeld 843-7124

September 12 (after 5:00p.m.)

Sharon Speevak 488-5094

September 13

Joanie Vance 522-7997

September 14

Stephan Legoueff 737-4311

September 15

Erika Rosenfeld 843-7124

La Revue de droit de McGill a
besoin de toi!

La Revue de droit de McGill, est une publication trimestrielle offrant des articles ainsi que des chroniques jurisprudentielles, législatives, et bibliographiques à la communauté juridique canadienne et étrangère. Son but est de promouvoir l'étude du droit au Canada et de contribuer à la compréhension des régimes de droit civil et de common law au Canada. La Revue est unique dans le sens qu'elle est bilingue, et juridiquement biculturelle. Sa publication est assurée par des étudiants de la Faculté.

Les membres du Comité s'engagent à oeuvrer deux ans au sein de la Revue, ce qui inclut l'intermède estival. Le Comité sénior comprend quinze personnes, dont quatre s'occupent de questions administratives diverses, tandis que les autres membres voient à la rédaction en général, soit, l'évaluation des manuscrits, la recherche, ainsi que la sollicitation de contributions. Les quinze membres du comité adjoint ('Junior Board') sont, au cours de leur première année, initiés aux différents rouages de la Revue, ce qui leur permet de prendre la relève l'année suivante.

Une connaissance approfondie de la bibliothèque, l'acquisition de techniques de recherche juridique, l'expérience générale acquise de la supervision d'une revue juridique trimestrielle sont au nombre des avantages liés à une participation active à la Revue.

La Faculté de droit accorde, en reconnaissance de leurs efforts, des crédits académiques aux étudiants-membres du Comité sénior. Ainsi, chaque membre se voit conféré deux crédits, le rédacteur en chef adjoint, le secrétaire général et l'administrateur, quatre, et le rédacteur en chef, six.

Tous les étudiants de deuxième et de troisième année sont encouragés à soumettre leur candidature. Les demandes seront acceptées dès le début des classes. Il suffira de nous présenter un curriculum vitae avant le 17 septembre afin que nous puissions céder une entrevue et vous donner un travail d'évaluation.

Le Comité de rédaction

The McGill Law Journal wants you!

The McGill Law Journal is a professional quarterly containing articles, case and statute comments, and book reviews of interest to professors, practitioners, and students in Canada and abroad. The purpose of the Journal is to promote the study of law in Canada and to aid in the understanding of the Civil and Common law systems. The Journal is unique in Canada being bilingual and juridically bicultural. It is published independently by students in the Faculty of Law.

Members of the boards commit themselves to two years on the Journal, and are expected to continue their work during the intervening summer. The Senior Board consists of fifteen members, four of whom manage the financial accounts, advertising and circulation, while the remaining eleven perform the editorial work, including evaluating, researching and proofreading manuscripts, as well as soliciting new contributions for future issues. The fifteen members of the Junior Board serve an apprenticeship during their first year enabling them to assume full responsibility for the Journal when they return as Senior Board members in the next year. Journal members acquire an excellent knowledge of the law library, methods of research and the management and production of a professional quarterly.

In recognition of their work, credit is awarded to members of the Senior Board by the Faculty on the following basis: two credits to each Board member, four credits to each of the Executive, Associate and Managing Editors, and six credits to the Editor-in-Chief.

All second and third year students are encouraged to apply for membership on the Editorial and Management Boards. Applications will be accepted as soon as school begins. The procedure will be as follows: first, we will ask students to submit a curriculum vitae by September 17th and to indicate whether they are interested in the Editorial or Management Board. We will then schedule an interview and hand out a short assignment.

The Senior Board

Editorials

WELCOME!

There is a truism which gets passed around that runs: "Law school is what you make of it." And while this is misleading because as law students we are stuck within the limits of curriculum, faculty, and the law itself, there is, nevertheless, an important way in which we can form our own environment at the school.

Just as the law is not simply a set of rules that are applied but depends a great deal on the imagination of lawyers faced with particular circumstances, so law school cannot just mean professors spoon-feeding students with facts. At the most obvious level, classes depend upon the ability of students to raise issues and to explore problems in the law. But even beyond that, what gets discussed around the school, what gets a place of prominence in the curriculum or in admissions standards or in cafeteria gossip sessions, depends a great deal on us. For example, some students felt that McGill lacked a Native Peoples and the Law course, and so last year one was established after a lot of work on their part. And there are hundreds of other ways that students participate in the life of this school, which by the end of first week will probably be repeated ad nauseam.

This newspaper, and you knew I would come to that, is part of that process. It also happens to be one of the few things that first year students, among others, can quickly get involved in if they want. Over the year we shall try to cover events around the school, ongoing problems — some of which are raised in the interview with the Dean which will appear over the next couple of weeks. There is, believe it or not, a lot of "investigative journalism" to be done about the state of the failure rate or tenure positions or fund-

LA FRANCOPHONIE A LA FACULTE DE DROIT

Le froid automnal n'a pas fait montre de patience. Il est venu sonner le glas annonçant la fin de l'été et le début de la rentrée. Déjà, les souvenirs de la période estivale s'estompent quelque peu. Les visages dorés au soleil d'un été trop court devront bientôt faire face à la froide réalité de l'univers juridique. Depuis quelques jours, le vieil édifice "Chancellor Day Hall" reprend vie. Il se prépare à accueillir "ses" étudiants.

Il n'en est pas un qu'il ne sache reconnaître. Il découvrira le nouvel étudiant qui s'avancera dans son univers d'un pas incertain, le sourire hésitant, l'oeil aux aguets et le coeur battant à folle allure. Il verra celui de deuxième année arriver d'un pas décidé, prêt pour une nouvelle session, laissant loin derrière lui les peurs et les drames de l'année précédente. Il reconnaîtra l'étudiant de troisième à son pas résigné et à son sourire indifférent. Enfin, il saluera le vieil habitué de quatrième que rien n'étonne plus. La caricature se veut humoristique mais il n'en demeure pas moins qu'elle n'est que trop réaliste.

J'aimerais donc, à l'occasion de cette nouvelle rentrée, souhaiter la bienvenue aux nouveaux étudiants qui se joignent à nous et le bonjour aux anciens qui nous restent fidèles.

Quid Novi, tel que vous le connaissez maintenant sous son nouveau format, en est à sa deuxième année d'existence. Ce journal est non seulement un véhicule d'information

mais également un lieu de rencontre où s'expriment les opinions personnelles, ainsi qu'un lieu de détente.

Mais la langue de Molière en tant qu'outil littéraire s'est révélée une perle rare l'an dernier. C'est pourquoi, en tant que rédactrice à la section française, j'aimerais profiter de l'occasion pour inviter les étudiants et les professeurs à nous écrire en français.

La présence de la francophonie à la faculté de droit est d'autant plus importante que, depuis la création du programme national, l'enseignement se veut biculturel. Ainsi, McGill offre l'unique opportunité de la rencontre de deux grands courants culturels et linguistiques. L'échange anglophone-francophone ne peut que nous enrichir.

Il est toutefois malheureux que les restrictions budgétaires aient contribué à la disparition des sections françaises de plusieurs cours. La Faculté perd ainsi un peu de son cachet. Il est à espérer que l'on pourra remédier à la situation dans un proche avenir afin que l'enseignement du droit à McGill soit non seulement biculturel mais également bilingue.

Je renouvelle donc mon invitation à tous les étudiants (francophones et anglophones) ainsi qu'aux professeurs afin que l'apport français au Quid Novi soit plus important cette année qu'il ne l'a été auparavant.

Martine Turcotte

raising or any number of other questions. There are student sports to cover, satirical articles to be written, and even the occasional restaurant or movie review to be done. All of this has the purpose of keeping fellow students informed, giving a vent to one's imagination, and, in keeping with the theme of this piece, forming the environment at the school. Anyone who wants to participate,

whether in a big way or in a small way, is encouraged to come to our next meeting, which will be on Monday September 13. And if you just want to submit something, the Quid Novi office is at the bottom of Old Chancellor Day Hall right beside the LSA office. First year students welcome. The rest of you, welcome back!

Richard Janda

Continued from p. 1

vous êtes. C'est aussi un milieu de vie, une collectivité, une micro-société dont chacun de nous est membre à part entière. Il n'en tient qu'à nous de la façonner, de la modeler, tout comme le sculpteur donne au granit la forme de son choix.

Certes, nombreux sont ceux d'entre vous qui nourrissent en eux le désir de se distinguer académiquement. Si cette ambition est louable, il n'en demeure pas moins qu'il existe d'autres façons aussi valorisantes de se dépasser. Elles peuvent se résumer en un mot: PARTICIPER.

Le but de notre éducation ne se limite pas à faire de nous des érudits en nous inculquant un savoir hermétique, mais aussi à former des êtres responsables et adultes qui seront prêts à intervenir dans leur milieu pour l'orienter selon leurs convictions sociales, politiques, spirituelles ou, au moins, d'en critiquer l'évolution.

Au cours des semaines qui suivent vous observerez avec intérêt l'intensité de l'engagement étudiant. Des organismes tels la Revue de droit, le Comité du tribunal-école et le "Board of Student Advisors" sont le produit d'initiatives étudiantes avant-gardistes visant chacune à leur manière, à parfaire notre éducation juridique. Notons qu'ils sont dirigés par des étudiants sous la supervision d'un membre du corps professoral.

Ce sont aussi des étudiants qui ont mis sur pied et qui veillent au bon fonctionnement de la librairie

où vous pouvez obtenir livres et recueils d'arrêts à prix réduits. Il en est de même pour ce journal qui est un forum où chacun est libre d'exprimer ses convictions ou ses frustrations. Bien sûr, il joue le rôle de lien entre les étudiants, mais aussi de point de rencontre avec les professeurs.

Nous ne pouvons passer sous silence la conscience sociale dont font preuve certains d'entre nous en offrant leurs services, par l'intermédiaire de la Clinique d'aide juridique, à tous ceux qui gravitent autour de l'Université qu'ils soient employés, professeurs ou étudiants et qui, soudainement, se trouvent confrontés à un problème juridique.

D'autres encore ont choisi de représenter le corps étudiant au sein des divers comités de la Faculté qui comprennent, pour n'en citer que quelques uns, le Comité des admissions, des examens, des bourses, etc. Plusieurs préfèrent s'engager dans les comités indépendants de l'A.E.D. tels le Comité social qui, entre autre, est responsable de la semaine d'accueil, le comité des sports, la Banque d'emplois, etc.

Dans tous les cas qui précèdent, ce sont des étudiants comme vous et moi qui donnons gratuitement notre temps et nos énergies pour répondre aux besoins d'une collectivité: la nôtre.

Mais participer ne se résume pas à s'engager activement comme membre d'un comité ou autre organisme. Il existe d'autres façons moins "onéreuses" d'assumer ses "responsabilités sociales". L'une d'entre elles consiste à assister aux as-

semblées générales qui nous réuniront périodiquement et où chacun de nous sera appelé à décider de notre avenir.

Participer, c'est aussi un plaisir que l'on accepte de s'offrir en se rendant aux événements sociaux plutôt que de courir à la bibliothèque pour résumer quelques arrêts de plus. Certes, la première année est difficile et une seule pensée domine toutes les autres: survivre dans ce monde hostile, cette jungle cérébrale que nous ont dépeint des films du genre "Paper Chase" et qu'entretennent avec un plaisir démoniaque plusieurs de nos Maîtres qui considèrent que "le-droit-c'est-sérieux", développant ainsi des théories darwinistes selon lesquelles les plus faibles périront et les plus forts survivront et atteindront le "nirvana" lors de la remise des diplômes. Sans nous en rendre compte, nous sombrons dans une psychose collective où nous nous aliénons. Est-ce vraiment nécessaire? N'y aurait-il pas moyen de créer une ambiance plus saine?

Pour conclure, je vous invite à créer le scénario et à occuper les rôles principaux de cette super production qui, n'en doutons pas, marquera vos vies. Engagez vous, participez, impliquez vous car nous sommes le moteur de cette Faculté.

Ami(e), ne pleure pas, si le festival du film est terminé, le cinéma continu!

Stéphan LeGoueff
V.P. Civil

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**Quid
Novi**

Editor-in-chief: Richard Janda
Managing editor: Demetrios Xistris
Features editors: Lynn Bailey
Pearl Eliadis

News editor: Joseph Rikhof
Rédactrice française: Martine Turcotte
Associate editor: Danny Gogek
Staff: Alan Alexandroff, Celia Rhea, Gertie Witte

Continued from p. 1

undergone. Because we have had to surrender almost \$250,000 in the last four years, which is a substantial sum of money, some of the plans that have been laid have never been fulfilled. Some are of the view that the best we could hope for would be not to suffer any further budget reductions. But I'm a little more optimistic than that. So when you say "where are we going?", I hope we're going uphill. My argument to the university has been that we have never had an adequate resource base. We had always been a small faculty until the early seventies. Then there was a kind of explosion and from a student body of about 350 we have risen to an undergraduate population of about 500 and a graduate student population that's the largest in the country. The budget has simply not kept pace with that kind of growth. When the cuts come, as they have for the past four years, and they're done by rigid formulae, they fall disproportionately on a small faculty. We can't absorb them as well as a faculty that has a budget of \$11 million. So it's a very dramatic and serious situation. And I consider the most immediate goal to be to rehabilitate the granaries of the faculty. This is my main task.

Quid Novi: Is it fair to say that you place a lot of importance on the Report of the Review Committee?

Dean Brierley: This ad hoc Committee can't itself allocate any funds. It only makes a report to the Principal's Budget Planning Group which itself makes budgetary decisions. And some of those decisions are normally made in early November. I'm hoping they'll be made before that.

Quid Novi: If the financial compression you've described were relieved, what would be some of the things that would be done in the short term?

Dean Brierley: Well, if the financial compression is relieved, it will probably be relieved on a phased-in basis. It would be over a period of one or two years because of other pressures in the University. One of the first things to do would be to improve

the student-teacher ratio. It is very bad in almost every sector — in "civil law", in "common law", in "national law", in graduate work, and in faculty participation in things like helping run and supervise various student-faculty activities such as Moot Court and the Tutorial Program. So if we do get additional resources, they have to go a long way. We need more space too. We are critically short of space. For example, it's long been a hope that we would be able to convert some portion of the new building into a reading room for the library both to seat the number of students who want to sit down and to make more room for books. The only thing we can do, I would imagine, is take over all or some of the second floor in the new CDH and that means we have to provide new classrooms. That in turn means we have to go into a neighbouring building. The other point is that if all staff members were present and none absent on sabbatical leave, there wouldn't be enough offices. So if we're going to get new staff, we have to have offices. And student facilities are appalling. They're better than when I was a student, but they're still appalling. So it's just an across the board thing and I think it would be premature to single out particular aspects.

Quid Novi: I take it that one of the pitches that was made to the Review Committee was that McGill has a unique program among law schools in Canada. How do you see the development of McGill's Program? And what is its purpose?

Dean Brierley: There are many purposes to the programs, and there are several programs which you may not always be aware of. The fundamental purpose of the faculty is to offer a legal education in Canada's legal system. And this involves specifically preparation for the legal professions of lawyer and notary for all the provinces of Canada. That's one primary function of any law school. It's certainly not the only function. And if I may say so I think that McGill has an extraordinarily rich history of aims and goals that goes well beyond that. It has quite a tradition of promoting thinking about the law constituting more than the

rather narrower view of preparing people for practice. It's not that that side is downgraded, but it's only one aspect. So, if you want, McGill tries to prepare people who are going to use the law, whether as practitioners or in some other capacity, to have a sensitivity to and consciousness of the national dimension of our law, and that involves the bisystemic approach as well as the federal law.

But it goes well beyond that as well. The graduate program in Air and Space Law is a unique program in North America and is one of two in the world. It happens to be at McGill because of historical circumstance — namely the presence here of the U.N. agencies: The International Civil Aviation Organization and the International Air Traffic Association. And so 32 years ago that was an idea, and from there it's gone on to attract students from every country in the world. Graduate work in that field is highly specialized. But with the space age and the technological revolution in telecommunications, it's becoming incredibly important.

The other aspect that's not always apparent to undergraduate students is the Comparative Law and International Business Law concentration. Of any law faculty in North America, I would think we are the best situated — historically, geographically, and in terms of the expertise and resources available, to promote those two particular aspects.

So you've got to bear those things in mind as well as the undergraduate program. And then, in common with any number of law faculties, we've got to offer the best possible legal education of which we are capable. And I don't think I have to elaborate on that.

Quid Novi: Is it possible to maintain a high standard for this plethora of goals?

Dean Brierley: Well, that's a very good question. That's really, I suppose, what we're asking the university. Do they want a law faculty which has the narrow little goal of preparing people for the Québec Bar, or do they want to faculty of international renown? I think, without wishing to be pretentious, that this faculty has the potential

to be the Canadian Law Faculty of international renown. It may surprise you that the faculty, or maybe the university, has a very considerable reputation abroad. There's no question of that. Now whether it's warranted or not may be another matter. I am of the view that the time is fast coming upon us when we will have to make very serious decisions about what we would do if the resource base doesn't change in some way. I should think, and I won't say any more than this, that any dismantling of the undergraduate program would be the last item on the list. I don't think there's any doubt about that. By saying that I don't want a rumour to get started. But every year, whenever there's a financial crisis, that's the immediate reaction. But dismantling the undergraduate program is so far from anybody's way of thinking at any level in the university that it's nonsense.

You have to remember that a faculty of law is a community, as I often say at the beginning of the year. It's a place where students and staff are supposed to be learning the law, thinking about its ramifications socially, economically, and in every other way, and bringing to bear a critical perspective on all of this. So when I talked a moment ago about the "narrow" goal of professional training and admission to the Bar, I don't want that to be misinterpreted, either, because I'm not denigrating it. I'm only saying it's just one element. That's why we teach law at the university. That's why universities have law faculties. If you don't want that function to be performed in society, let somebody else teach law. Get the Bar to teach law.

Quid Novi: I suppose it's most striking to undergraduate students that the school has both a common law and a civil law component. There's probably still some question in students' minds about how the two fit together at the school.

Dean Brierley: Well, that's a perfectly respectable question too. If you look in this year's Faculty of Law Announcement, I make reference to the fact that when this law

school started, it taught, as part of the undergraduate curriculum, Blackstone's Commentaries, the Coutume de Paris, as annotated by Pothier and others, and the Corpus Juris Civilis of Justinian, because these were all elements of the legal system at the time. This is in the 1850s. Now that is a pretty extraordinary curriculum — if you like, common law, French law, and Roman law. Today we have an equally imaginative program. One might almost call it a daring program. But it is relevant to the formation or training of a full lawyer in Canada. And there continue to be implications for the library and the teaching staff and the way the curriculum is organized. Ours is the most complex program in Canada. There's no question about that. There are all kinds of factors at play that aren't present anywhere else. It's not easy, but it's worth it.

Quid Novi: Why is it worth it?

Dean Brierley: I don't know whether we want to talk about the politics of the thing, but I think it is highly important that there be a place in Canada where, through the prism of law studies, you can get people into some kind of dialogue between the two camps which are represented by the history of the Canadian legal tradition. The federal government and its agencies have not promoted this kind of interaction, which it should have, although it alleged to be doing so in the legislation authorizing the Canada Law Reform Commission. If you look that up you will see there are marvellous sorts of goals stated concerning reconciling the two legal traditions and so on, but I don't think it's done. I think it's important that there be in Canada a foyer or community where this goes on. And it's not going on anywhere else. Of course, this kind of dual training may not be everybody's cup of tea. Not everybody is going to want that. But if they don't want that, they can go somewhere else where they are not exposed to the challenge it represents.

QUID NOVI MEETING

Monday, September 13th

1:00p.m.

Common Room

ALL WELCOME

The Dean's Reception

The Dean and the Social Committee extend their apologies for the scheduling of the Dean's Reception on Friday, September 17th, the first day of Rosh Hashanah. Efforts are now being made to reschedule the Reception, but this may not be possible due to the considerable demand on the Union Ballroom.

NEXT WEEK: PART TWO

AMERICAN CORNER

A Conservative American

This summer I was fortunate to meet a very committed American. From him, I received a picture of a dedicated and conservative America that seldom is reflected in media presentations of the "Right". I hope to pass parts of that picture on to you.

The occasion for this encounter was a conference at Wabash College, a tiny college in the equally tiny town of Crawfordsville, Indiana. In the heart of the Midwest the Liberty Fund assembled lawyers, political scientists, historians, and philosophers to debate "Constitutionalism: The Extent and Limits of Power". There, I was pleased to make the acquaintance of one of the lecturers Charles Rice. Though I remain far from an advocate of his views, I could not help but be impressed with the clarity with which he described his political and legal acts.

Professor Rice today lives in Mishawaka, Indiana. The father of ten, he teaches law — torts, constitutional law and jurisprudence to be exact — in South Bend at Notre Dame Law School. Prior to this, he taught law at New York and Fordham Universities both in N.Y.C. But these teaching posts represent just a part of his commitment to public life in America. For Charles Rice, in addition to his teaching, was a founding member in 1962 of the now powerful Conservative Party of New York, and later a member of the New York Constitutional Convention of 1967.

More recently, he has been closely involved in national politics. He was counsel to Senator Barry Goldwater on the struggle concerning the termination of the Taiwan treaty. Since the election of Ronald Reagan as President, he

has been a consultant with the Justice Department as well as the Department of Education. And, he has worked closely with the staffs of some of the most powerful, well known conservative politicians in Congress including Senator East and Helms. It is his work with these men, particularly his efforts over the issue of abortion that formed the bulk of my private conversation with Professor Rice which I shall try to relate. The political and legal tactics fashioned reveal a "hard-headed" constitutional knowledge combined with a single-minded determination to overturn the Supreme Court position adopted in Roe v. Wade (1973) 93 S. Ct. 705.

But, before detailing the legal and constitutional strategies devised by Charles Rice and others equally dedicated to abolition of abortion, it is perhaps not to indulgent to try to convey a sense of this "legal soldier". The phrase is, I think, an apt one. For one, Rice has served actively in the reserves with the U.S. Marine Corps, just recently retiring as a Lieutenant Colonel after 28 years.

His truly soldier-like qualities emerge as he talks of the law and life. Here, there is a complete commitment to a religiously infused life, personal and public. Rice is a deeply devout Catholic who has marshalled religious belief and conviction with an abiding respect for law and the American Constitution. A list of his publications on abortion, public education, and public prayer all testify to this.

If Professor Rice strikes a repeated theme in his conversations, it is the moral and ethical requirements of the law. Not surprisingly, it comes comfortably to a strong advocate of natural justice and natural law. In a world of legal positivists, and to this writer who is largely one himself, it is almost a physical shock to

hear someone speak of a system of law ultimately dependent upon God, and knowledge acquired through revelation.

Charles Rice is someone outspoken in his views though not in his personal style. Over a wide range of issues he conveyed his own well-formed picture of a new conservative America, galvanized to political action by apparent distortion in the American constitutional process. And how does that view affect his teaching? In an area like torts, for instance, he suggests that while he is most concerned to teach what the law is, he addresses moral and ethical questions whenever it is appropriate. Thus, he discusses contingent fees and medical malpractice cases for the ethical questions they raise or should raise for a lawyer. As he notes, it is easier to raise these issues in a Catholic law school, for the school and the students accept the view that "you really can't study law without the moral dimension."

Professor Rice sees no tension in this dual moral and legal approach. As he sees it, as a teacher, he concentrates strongly on the nuts and bolts elements providing a sound legal education but also opening students to the moral dimensions. As to bias, he asserts he "has bent over backwards" to avoid riding his own issues though he has "known guys who are really hyped on issues such as busing." Though they've sent him materials to use he's never used such materials for he believes he would be "short-changing" his students. As he says, his primary duty is to "train these guys as lawyers at Notre Dame," but he does "want to make them aware of ethical and moral issues so they may develop the faculty to distinguish their own positions on the cases."

ALAN ALEXANDROFF

To be continued